

Sep 14, 2017

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN M. RENFROE,

Plaintiff,

v.

QUALITY LOAN SERVICE CORP.
OF WASHINGTON; BANK OF
AMERICA, N.A., successor by merger
to BAC Home Loans Servicing, LP,
f/k/a Countrywide Home Loans
Servicing, LP; CITIBANK, N.A., as
trustee of NRZ Pass-Through Trust VI;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.;
and BANK OF NEW YORK
MELLON, as trustee on behalf of the
Certificateholders of the CWHEQ Inc.,
CWHEQ, Revolving Home Equity
Loan Trust Series 2006-C,

Defendants.

No. 2:17-CV-0194-SMJ

**ORDER GRANTING IN PART
AND DENYING IN PART
PLAINTIFF'S MOTION TO
STRIKE DISPOSITIVE MOTIONS
OR CONTINUE HEARINGS**

Before the Court, without oral argument, is Plaintiff Jan Renfroe's Motion to Strike Summary Judgment Motion and Motion to Deny Motions for Summary Judgment and Dismissal or Continue the Hearings, ECF No. 34.

1 Ms. Renfroe first asks this Court to strike the joint motion for summary
2 judgment filed by Citibank, N.A. (Citibank) and Mortgage Electronic Registration
3 Systems, Inc. (MERS). She argues the defendants' failure to include a separate
4 statement of facts pursuant to LR 56.1(a) prejudices her ability to dispute the alleged
5 facts. While the motion does violate LR 56.1, Ms. Renfroe's motion indicates she
6 has a nuanced understanding of the factual issues relevant to summary judgment.
7 The Court therefore declines to strike Citibank and MERS' motion on these
8 grounds. Defendants Citibank and MERS are instructed to submit a statement of
9 facts in compliance with LR 56.1 no later than September 19, 2017.

10 Ms. Renfroe next asks the Court to strike Defendants' motions for summary
11 judgment and dismissal on the basis of defendants' alleged failure to comply with
12 the Court's scheduling order. Defendants Citibank and MERS submitted
13 documentation showing their compliance with the initial disclosure deadline.
14 Defendants Bank of America NA (Bank of America) and Bank of New York Mellon
15 (New York Mellon) have not indicated whether they are in compliance with the
16 Court's scheduling order. Nonetheless, dismissal of Bank of America and New
17 York Mellon's motion to dismiss is a serious sanction that the Court will not impose
18 lightly. Instead, the Court directs defendants Bank of America and New York
19 Mellon to file a status report detailing their compliance with the discovery deadlines
20 no later than September 22, 2017.

1 Finally, Ms. Renfroe asks the Court to continue the September 25, 2017
2 hearing date for the dispositive motions. She alleges that further discovery will
3 enable her to better defend both claims. This argument is inapposite with regard to
4 the motion to dismiss because the motion is based solely on the pleadings and
5 judicially noticed facts.

6 With respect to the motion for summary judgment, Ms. Renfroe has
7 established a sufficient basis for a continuance under Rule 56(d)(2). Accordingly,
8 hearing on Defendants' Motion for Summary Judgment, ECF No. 4, is continued
9 to Tuesday, November 21, 2017, at 10:00 a.m. in Spokane. Ms. Renfroe may file
10 an amended response to this motion no later than October 16, 2017. Defendants
11 may file a reply no later than October 30, 2017.

12 Accordingly, **IT IS HEREBY ORDERED:**

13 **1. Plaintiff's Judgment and Dismissal or Continue the Hearings, ECF**
14 **No. 34, is GRANTED IN PART AND DENIED IN PART.**

15 **A.** Plaintiff's motion to strike Citibank and MERS' motion for
16 summary judgment, ECF No. 4, is **DENIED**.

17 **B.** Plaintiff's motion to strike Bank of America and New York
18 Mellon's motion to dismiss, ECF No. 7, is **DENIED**.

19 **C.** Plaintiff's motion to continue hearing on Bank of America and
20 New York Mellon's motion to dismiss, ECF No. 7, is **DENIED**.

1 **D.** Plaintiff's motion to continue hearing on Citibank and MERS'
2 motion for summary judgment, ECF No. 4, is **GRANTED**.


3 **E.** Hearing on Defendants' Motion for Summary Judgement, ECF
4 No. 4, is continued to **Tuesday, November 21, 2017**. Ms.
5 Renfroe may file an amended response to this motion no later
6 than October 16, 2017. Defendants may file a reply no later than
7 October 30, 2017.

8 **2.** Defendants Citibank and MERS must **file a statement of facts** in
9 compliance with LR 56(1) **no later than September 22, 2017**.

10 **3.** Defendants Bank of America and New York Mellon are instructed to
11 **file a status report** detailing compliance with the discovery deadlines
12 outlined in the Scheduling Order, ECF No. 31, **no later than**
13 **September 22, 2017**.

14 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
15 provide copies to all counsel.

16 **DATED** this 14th day of September 2017.

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19 SALVADOR MENDOZA, JR.
20 United States District Judge